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| UMBRA LLC, | : | |
| | : | |
| Plaintiff, | : | |
| | : | Civil Action No. 1:19-cv-05955 (ER) |
| -against- | : | |
| | : | |
| | : | CIVIL CASE DISCOVERY PLAN |
| OXO INTERNATIONAL, LTD. | : | AND SCHEDULING ORDER |
| | : | |
| Defendant | : | |
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This Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel, pursuant to Fed. R. Civ. P. 16 and 26(f):

1. All parties do not consent to conducting all further proceedings before a Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. (If all parties consent, the remaining paragraphs of this form need not be completed.)
2. This case is to be tried to a jury.
3. Joinder of additional parties must be accomplished by 10/11/2019.
4. Amended pleadings may be filed until 10/11/2019.
5. Interrogatories shall be served no later than 4/8/2020. The form and number of interrogatories, as well as the timing, form, and supplementation of responses thereto shall be governed by the Federal Rules of Civil Procedure. The provisions of Local Civil Rule 33.3 shall not apply to this case.
6. First request for production of documents, if any, shall be served no later than 11/15/2019.
7. Non-expert depositions shall be completed by 5/8/2020.
 - a. Unless counsel agree otherwise or the Court so orders, depositions shall not be held until all parties have responded to any first requests for production of documents.
 - b. Depositions shall proceed concurrently.
 - c. Whenever possible, unless counsel agree otherwise or the Court so orders, non-party depositions shall follow party depositions.

8. [Omitted]
9. Requests to Admit, if any, shall be served no later than 4/8/2020.
10. Expert reports shall be served no later than 6/5/2020.
11. Rebuttal expert reports shall be served no later than 7/6/2020.
12. Expert depositions shall be completed by 8/7/2020.
13. Additional provisions agreed upon by counsel are attached hereto and made a part hereof.
14. **ALL DISCOVERY SHALL BE COMPLETED BY 8/7/2020.**
15. Any motions shall be filed in accordance with the Court's Individual Practices.
16. This Civil Case Discovery Plan and Scheduling Order may not be changed without leave of Court (or the assigned Magistrate Judge acting under a specific order of reference).
17. The Magistrate Judge assigned to this case is the Hon. Stewart D. Aaron.
18. If, after entry of this Order, the parties consent to trial before a Magistrate Judge, the Magistrate Judge will schedule a date certain for trial and will, if necessary, amend this Order consistent therewith.
19. The next case management conference is scheduled for August 12, 2020 at 11:00 a.m. (The Court will set this date at the initial conference.)

SO ORDERED.

Dated: November 13, 2019
New York, New York



Edgardo Ramos, U.S. District Judge

ADDITIONAL PROVISIONS AGREED TO BY THE PARTIES

Pursuant to Federal Rules of Civil Procedure 16 and 26(f), Counsel for Plaintiff Umbra LLC (“Plaintiff”) and Defendant OXO International, Ltd. (“OXO”) agree upon the following provisions to govern discovery in the above-captioned case in addition to those dates and provisions specified in the Scheduling Order to which these additional provisions are attached:

1. CONTENTION INTERROGATORIES

The parties agree that the deadlines for responses to infringement and invalidity contention interrogatories, if any, shall be determined by the express deadlines enumerated for infringement and invalidity contentions, which the parties agree shall be considered responsive to contention interrogatories.

2. PROTECTIVE ORDER AND ELECTRONICALLY STORED INFORMATION ORDER

Counsel finds it will be necessary to apply to the Court for a protective order specifying terms and conditions for the disclosure of confidential information. Counsel further finds it will be necessary to apply to the Court for an order governing the treatment of electronically stored information. Counsel will confer and attempt to reach an agreement on a proposed form of both orders and submit it to the Court within ten (10) days from the date the Court enters this Order.

3. REQUESTS FOR ADMISSION

A maximum of 25 Requests for Admission are permitted for each side.

4. SUBSTANTIAL COMPLETION OF DOCUMENT PRODUCTION

The parties shall substantially complete their production of documents by March 13, 2020. The inclusion of a deadline for substantial document production does not extend or otherwise amend

deadlines for producing or supplementing document production as set out in the Federal Rules of Civil Procedure.

5. DEPOSITIONS

(1). Limitation on Number of and Time for Fact Depositions. Each side is limited to taking a total of ten (10) fact depositions and 30(b)(6) testimony shall be capped at twenty-one (21) hours per side. Unless otherwise stipulated or ordered by the Court, a deposition is limited to one (1) day of seven (7) hours. In applying the limit on the number of fact depositions, a 30(b)(6) deposition of an adverse party or parties that arises from a single deposition notice (including amendments) and that involves seven hours or less of testimony (regardless of the number of witnesses giving 30(b)(6) testimony on the listed topics) should be counted as one deposition. Such a 30(b)(6) deposition that involves more than seven but less than fourteen hours of testimony (regardless of the number of witnesses giving 30(b)(6) testimony on the listed topics) will be treated as two depositions, etc. up to a maximum of twenty-one hours of testimony (which will be treated as three depositions). The parties agree that the foregoing limits shall not apply to expert depositions, which shall be subject to separate agreement between the parties following meeting and conference by same.

(2). Location of Depositions. The parties shall meet and confer regarding the locations of depositions, taking into account convenience for the deponent. All depositions will occur in the United States. In the event the parties cannot agree on a location for a deposition after negotiating in good faith, the deposition will take place within this district.

6. PROPOSED CASE SCHEDULE

| EVENT | DEADLINE |
|---------------------|--|
| Initial Disclosures | 5 days after entry of Scheduling Order |

| EVENT | DEADLINE |
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| Joint Application to Court for Protective Order and ESI Order | 10 days after entry of Scheduling Order |
| Motion to Join Parties and Amend Pleadings | October 11, 2019 |
| Plaintiff's Identification of Accused Products and Asserted Claims (S.D.N.Y. Local Patent Rule 6) | November 15, 2019 |
| Initial Service of Requests for Production | November 15, 2019 |
| Defendant's Initial Invalidity Contentions (S.D.N.Y. LPR 7) | December 16, 2019. |
| Exchange List of Preliminary Constructions and Extrinsic Evidence | January 10, 2020 |
| Joint Claim Construction Chart | January 17, 2020 |
| Opening Claim Construction Briefs | January 31, 2020 |
| Exchange of Opposition Briefs | February 14, 2020 |
| Claim construction hearing | February 26, 2020, 10:00 AM |
| Substantial Completion of Document Production | March 13, 2020 |
| Final Infringement Contentions | April 10, 2020 |
| Final Invalidity Contentions | April 17, 2020 |
| Fact Discovery Closes | May 8, 2020 |
| Opening Expert Reports | June 5, 2020 |
| Rebuttal Expert Reports | July 6, 2020 |
| Expert Discovery Closes | August 7, 2020 |
| Case Dispositive Motions and <i>Daubert</i> Motions | September 4, 2020 |
| Joint Pretrial Statement | 30 days after a decision on dispositive motions |
| Pretrial Filings Pursuant to 3B of Individual Practices of Judge Ramos | 30 days after filing of Joint Pretrial Statement |